

# EXHIBIT I

1 UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TENNESSEE  
3 CASE NO. 3:19-cv-00041  
4  
5 - - -  
6 SCOTT ALLEN TOMEI, :  
7 Plaintiff, :  
8 vs. :  
9 PARKWEST MEDICAL CENTER and :  
10 COVENANT HEALTH, :  
11 Defendants.:  
12

13 \* \* \* \* \*  
14

15 DEPOSITION OF JANELLE BAGNESKI  
16  
17

18 =====

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1 D E P O S I T I O N

2 The deposition of Janelle Bagneski, taken at  
3 the request of the Plaintiff, for purposes of  
4 discovery, pursuant to the Tennessee Rules of Civil  
5 Procedure on the 17th Day of December, 2019, at the  
6 offices of Arnett, Draper & Hagood, LLP, 800 S. Gay  
7 Street, 2300 First Tennessee Plaza, Knoxville,  
8 Tennessee 37901 before Catherine Golembeski,  
9 Registered Professional Reporter and Notary Public  
10 at Large for the State of Tennessee.

11 It is agreed that the deposition may be  
12 taken in machine shorthand by Catherine Golembeski,  
13 Licensed Court Reporter and Registered Professional  
14 Reporter and Notary Public, and that she may swear  
15 the witness and thereafter transcribe her notes to  
16 typewriting and present to the witness for  
17 signature, and that all formalities touching  
18 caption, certificate, filing, transmission, etc.,  
19 are expressly waived.

20 It is further agreed that all objections  
21 except as to the form of the questions are reserved  
22 to on or before the hearing.

23

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1 EXAMINATION

2 (Proceedings began at 2:05 p.m.)

3 JANELLE BAGNESKI,

4 called as a witness at the instance of the  
5 Plaintiff, having been first duly sworn, was  
6 examined and deposed as follows:

7 EXAMINATION BY MR. ROZYNSKI:

8 Q. Good afternoon.

9 A. Hi.

10 Q. My name is Andrew Rozynski. And I am  
11 with the law firm of Eisenberg and Baum. And I  
12 represent Scott Tomei in the matter against  
13 Parkwest Medical Center. I brought you here to  
14 take your deposition.

15 Have you ever had your deposition taken  
16 before?

17 A. No.

18 Q. So since this is your first time, I'm  
19 just going to go over some of the ground rules. As  
20 you can see, the court reporter has sworn you in,  
21 which means you've sworn to tell the truth, which  
22 means that if you knowingly lie you could be  
23 subject to penalties of that sort. So it's just  
24 important that you just give me your best  
25 recollection and just tell the truth. Okay?

1 A. Okay.

2 Q. All right. It's important that we have  
3 a clear record, that the court reporter's making  
4 the transcript. So there's certain ways that we  
5 can do that. For instance, first and foremost,  
6 sometimes I may ask a question and you might know  
7 the answer to that question before I finish it. I  
8 ask that you wait until the question is finished  
9 and then answer. And I'll wait until you finish  
10 your answer and I'll ask the next question. Okay?

11 A. Okay.

12 Q. And also there are things that  
13 witnesses do like um-hum, or uh-huh, or shake their  
14 head or nod their head rather than give a verbal  
15 response, that doesn't really make for a clear  
16 record. So I would just ask that you give a verbal  
17 response. Okay?

18 A. Okay.

19 Q. Also, it's not a memory test. So if  
20 you don't remember something, it's okay to say that  
21 you don't remember. However, I am entitled to your  
22 best recollection. So it's really important that  
23 you give me that best recollection. So, for  
24 instance, if I ask you when something happened and  
25 you recall it happened in October of 2017, but you

1 don't know the exact date, instead of saying I  
2 don't know when it happened, you can give your best  
3 recollection which is October 2017. Okay?

4 A. All right.

5 Q. I don't expect this to be too long, but  
6 if you need to take a break at any time, you can  
7 take a break, just not in the middle of a question.  
8 Okay?

9 A. Okay.

10 Q. Could you state your full name and  
11 address for the record?

12 A. Janelle Marie Bagneski, 3807  
13 Sevierville Pick, Knoxville, Tennessee 37920.

14 Q. Okay. And who's your current  
15 employment?

16 A. Parkwest Medical Center.

17 Q. For how long have you worked for  
18 Parkwest?

19 A. Since July of 2015, I believe.

20 Q. Okay. What is your current position  
21 there?

22 A. I am a nurse.

23 Q. Are you a registered nurse?

24 A. Yes.

25 Q. Okay. And have you been a registered



1 nurse since 2015?

2 A. No, 2012.

3 Q. '12?

4 A. Uh-huh.

5 Q. Okay. Have you been a registered nurse  
6 since 2012?

7 A. Yes.

8 Q. And have you worked for anyone else  
9 other than Parkwest as a registered nurse?

10 A. Yes.

11 Q. Where did you work?

12 A. I worked at a hospital called St.  
13 Francis in Milwaukee. And then I worked at East  
14 Tennessee Children's Hospital as well.

15 Q. And for how long did you work at both  
16 those places?

17 A. About a year-and-a-half. Both of those  
18 other places, I believe.

19 Q. Okay. What are your general job duties  
20 as a registered nurse at Parkwest?

21 A. I currently work in the recovery room,  
22 the PACU. So I help people wake up from surgery.  
23 So I help protect their airway, administer  
24 medications, et cetera.

25 Q. And how about in October of 2017, what

1 was your -- where did you work in Parkwest?

2 A. In the emergency room.

3 Q. When you first joined Parkwest, did you  
4 go through orientation?

5 A. Yes.

6 Q. And can you describe how long your  
7 orientation was, approximately?

8 A. I believe it's usually about a week. I  
9 think every day was, like, from eight to noon, but  
10 that's a guesstimate.

11 Q. Do you remember the kinds of topics you  
12 went over during your orientation, generally?

13 A. Infection control. Let's see what are  
14 some of the other things. Just proper procedures.  
15 I don't remember the specifics, but.

16 Q. Do you recall receiving specific  
17 training, at any point in time, on how to  
18 accommodate people who don't speak English?

19 A. I don't remember when I was hired  
20 because it was a long time ago, but I do know we  
21 did CVLs on how to help people that don't speak  
22 English.

23 Q. You said CVLs?

24 A. CVLs, it's like power points online.  
25 It's for our continuing education.

1           Q.    And when was the last time you did a  
2   module on providing language access to people who  
3   don't speak English?

4           A.    We've done one recently this year.

5           Q.    Okay.  So have you ever had patients  
6   that speak another language such as Spanish?

7           A.    Yes.

8           Q.    Do you speak Spanish yourself?

9           A.    No.

10          Q.    Okay.  So how would you communicate  
11   with a patient who only speaks Spanish?

12          A.    Through an interpreter.

13          Q.    And would you use an interpreter for  
14   all of your communications?

15          A.    Yes.

16          Q.    Why?

17          A.    To assure they understand so that I  
18   have adequate communication with my patient.

19          Q.    And why is it important that they  
20   understand all of your communications through an  
21   interpreter?

22          A.    Because it's their healthcare.  And I  
23   would want to be able to understand, I guess, it  
24   would be unfair if they didn't.  I don't know.

25          Q.    Okay.  You sometimes have Spanish

1 speaking patients who speak a little bit of English  
2 but primarily communicate in Spanish. Is that  
3 right?

4 A. Yes.

5 Q. And would you still prefer that even  
6 though they might know a little bit of English,  
7 they prefer that they communicate in their primary  
8 language?

9 A. Yes.

10 Q. And if not only so that you can  
11 understand them. It's not only so they can  
12 understand you, it's so that you can understand  
13 them as well?

14 A. Yes.

15 Q. Have you been trained whether it's  
16 appropriate to use family members in lieu of a  
17 professional interpreter?

18 A. Yes.

19 Q. What's your understanding of that  
20 training?

21 A. If the patient's preference is to use a  
22 family member, that's allowed.

23 Q. Okay. And how would you indicate a  
24 preference?

25 A. I would ask.

1 Q. Okay. And are you familiar with, like,  
2 a communication assessment form?

3 A. Yes.

4 Q. Have you ever filled out those before?

5 A. There is one. I know there is one in  
6 the policy, but I don't know if I've ever  
7 personally filled it out before.

8 Q. Do you know if someone prefers family  
9 members to be utilized rather than an interpreter,  
10 if it should be noted in the communication  
11 assessment form?

12 A. Yes.

13 Q. Okay. And is that the case?

14 A. I don't understand your question,  
15 sorry.

16 Q. So you said that you are familiar that  
17 if a preference to use family members is made, that  
18 that should be indicated in the communication  
19 assessment form?

20 A. Yes.

21 Q. Okay. Is that based on your training?

22 A. Yes.

23 Q. Okay. Did you review any documents  
24 today to prepare for today?

25 A. Yes.

1 Q. What documents did you review?

2 A. The chart of the day that I saw the  
3 patient.

4 Q. Okay. Did you only see the patient on  
5 one day?

6 A. Yes.

7 Q. Was that on October 24th?

8 A. Yes.

9 Q. Okay. Were you the person that did the  
10 initial triage?

11 A. Yes.

12 Q. Could you tell me a little bit about  
13 what the initial triage entails?

14 A. It's, basically, a screening tool for  
15 assessing the priority of the patient. So if  
16 someone comes in, we don't know any information  
17 about them. So I would be there to just get a very  
18 brief reasoning of why the patient came in and get  
19 their vital signs.

20 Q. Are you trained that if the person  
21 speaks another language during triage, you should  
22 utilize an interpreter?

23 A. Yes.

24 Q. Are you familiar with something called  
25 a face sheet?

1 A. Yes.

2 Q. As an initial triage nurse, are you the  
3 one that fills out an initial face sheet?

4 A. No.

5 Q. Who does that?

6 A. Registration.

7 Q. And when you get the person's  
8 registration, do you have a copy of that face  
9 sheet?

10 A. No. It is on the chart, but it's not  
11 something that I would look at.

12 Q. Okay. Do you have any way of knowing  
13 if registration was made aware that the person  
14 speaks another language?

15 A. I am not sure. It may be written on  
16 the sheet that the patient fills out, but I'm  
17 unsure.

18 Q. Okay. There's a document in front of  
19 you which has been previously marked as Exhibit-1.  
20 Do you see in the right-hand column under primary  
21 care physician, there's a language box and it  
22 indicates language?

23 A. Yes.

24 Q. Is this sheet filled out during  
25 registration?

1 A. Yes.

2 Q. And when you are meeting with a  
3 patient, would this information show up on your  
4 computer terminal?

5 A. No, it's a whole separate system than  
6 what we use to chart in.

7 Q. Okay. What kinds of -- so what kind of  
8 -- do you ask about language preferences during  
9 triage?

10 A. I would call the person's name and  
11 bring them back into the triage room. And I  
12 usually would just start off with their name and  
13 birthday. And if they had difficulty communicating  
14 with me at that time, then I would ask for or  
15 assess what language they spoke.

16 Q. Do you actually remember Mr. Tomei?

17 A. I don't.

18 Q. Okay. Have you ever had a deaf patient  
19 before?

20 A. Yes.

21 Q. And for deaf patients, how do you  
22 typically communicate with them?

23 A. Sign language through an interpreter,  
24 whether it will be someone that's there for  
25 interpreting or through the interpreter device.



1           Q.    Why is it important to use a sign  
2    language interpreter for a deaf person?

3           A.    So that they can understand what's  
4    going on and so I can understand the language that  
5    they speak.

6           Q.    Okay.  And even if the deaf person  
7    knows some written English, you would still prefer  
8    to communicate in their primary language, sign  
9    language?

10          A.    Yes.

11          Q.    Why wouldn't you just resort to writing  
12    notes rather than use their primary language of  
13    sign language?

14          A.    It may be a more effective  
15    communication through an interpreter.

16          Q.    Okay.  Have you been trained one way or  
17    the other whether relying on lip reading rather  
18    than sign language is advisable or not?

19          A.    I don't know specifically.

20          Q.    Okay.  Have you been trained whether  
21    it's okay to use lip reading when communicating  
22    with deaf people?

23          A.    I don't know.  I'm not sure.

24          Q.    Okay.

25               MR. ROZYNSKI:  I'm going to mark this

1 as Exhibit 3. It is the medical records for the  
2 October 24th, 2017 visit for Mr. Tomei. Okay?

3 (Plaintiff's Exhibit 3, Medical Record  
4 dated 10/24/17, was marked for  
5 identification.)

6 Q. This is a 24-page document. And I'm  
7 going to -- I want you to take a look at it and  
8 tell me --

9 MR. YOUNG: Let me review it first,  
10 please.

11 A. Yeah.

12 Q. And could you tell me on what page you  
13 entered information or what pages you've entered  
14 information on the chart?

15 A. Page two and page three.

16 Q. Okay.

17 A. And then also on page six on the staff  
18 legend as well, that would have just been auto  
19 filled by the computer.

20 Q. Okay. In the last two entries on page  
21 two on the nursing triage history?

22 A. Yes.

23 Q. Why don't you go down to that  
24 paragraph, the two -- last two sentences which  
25 says: "No language or communication barrier." Is

1     that accurate?

2             A.     I don't understand your question.   Are  
3     you just asking, do I see it?

4             Q.     Yeah.   Do you see it?

5             A.     Yes.

6             Q.     Is it accurate to say that you had no  
7     language or communication barrier with Mr. Tomei?

8             A.     That section of the charting is under  
9     the falls risk interventions.   It's a screening  
10    tool to assess if a patient is a fall risk.   So  
11    that section of the chart is separate from the next  
12    section where I say the patient is hearing  
13    impaired.

14            Q.     Okay.   My question is a little  
15    different.   Is that accurate that you had no  
16    language or communication barrier with Mr. Tomei?

17            A.     No.

18            Q.     So did you have a language or  
19    communication barrier with Mr. Tomei?

20            A.     I don't remember the actual day of the  
21    events, but from my understanding in the chart, he  
22    was hearing impaired.

23            Q.     Okay.   So as you sit here today, you  
24    can't say one way or the other if you did or did  
25    not have a language or communication barrier with

1 Mr. Tomei, even though he may be hearing impaired?

2 A. I don't remember the actual day of the  
3 events. I don't remember.

4 Q. Okay. Have you ever used an in-person  
5 interpreter or any language professional, in-person  
6 interpreter for any patient at Parkwest?

7 A. Yes.

8 Q. What language?

9 A. I've used it for Spanish and sign  
10 language as well.

11 Q. And when was that?

12 A. I don't remember the exact days.

13 Q. Was it in the last year or more than  
14 that?

15 A. Probably within the last year.

16 Q. Okay. And prior to that, do you have a  
17 recollection of whether you used an in-person  
18 interpreter for Spanish or sign language?

19 A. I don't remember.

20 Q. Okay. So you, under allergies, this  
21 was entered on his at 2:25 p.m.?

22 A. Yes.

23 Q. NK is that no known allergies?

24 A. Yes.

25 Q. Is this a question that you ask the

1 patient?

2 A. Yes.

3 Q. Do you know how you got this  
4 information from Mr. Tomei?

5 A. I don't remember.

6 Q. Okay. Under the nursing triage history  
7 you ask a lot of questions. Is that correct?

8 A. Yes.

9 Q. And just looking at this, the only  
10 indication in this paragraph of how communication  
11 was between you and Mr. Tomei is the no language or  
12 communication barrier entry?

13 MR. YOUNG: Object to the form.

14 Q. Is that accurate?

15 MR. YOUNG: Object to the form. I  
16 think it misstates -- well, anyway, if you could  
17 repeat the question. I don't want to do a speaking  
18 objection. Go ahead.

19 MR. ROZYNSKI: Could you repeat my last  
20 question.

21 (The Court Reporter reads back the  
22 requested text.)

23 Q. Is that correct?

24 A. And in the next sentence I did note  
25 that he was hearing impaired. And I don't have any

1 recollection of the actual day. I guess I don't  
2 understand your question very well.

3 Q. Okay. You don't know what degree of  
4 hearing impairment Mr. Tomei had from this  
5 paragraph, right?

6 A. No.

7 Q. Whether it was a mild hearing  
8 impairment, or severe or profound hearing  
9 impairment, correct?

10 A. No.

11 Q. Okay. How long does this nursing  
12 triage history take to conduct?

13 A. According to the chart, I was with him  
14 from 14:25 until 14:28, so three minutes.

15 Q. So you've asked all these questions of  
16 him in three minutes?

17 A. Yes.

18 Q. Okay. Let's go to the next page, page  
19 three. You did a suicide risk screening of Mr.  
20 Tomei?

21 A. Yes.

22 Q. And how did that work?

23 A. I asked if he's had any thoughts of  
24 harming himself.

25 Q. Okay. So going to the nursing

1     assessment in general presentation it says that Mr.  
2     Tomei was in no acute distress. Is that accurate?

3             A.     That was not charted by me. The only  
4     thing charted -- that I charted under the nursing  
5     assessment was the negative neglect and abuse  
6     history. It's a screening tool that every patient  
7     has to be asked when they come into the hospital.  
8     The rest of the assessment was charted by the  
9     primary nurse.

10            Q.     Was there anything else, other than  
11     what's contained on page two and three, that you  
12     entered into Mr. Tomei's medical record?

13            A.     No.

14            Q.     Do you know if during triage a language  
15     assessment should be done?

16            A.     I think it was the section or I put  
17     patient is hearing impaired, I believe, on our  
18     charting that that was a language section.

19            Q.     Okay. And could you go to the last  
20     page of Exhibit 2 here. Did you fill one of these  
21     out for Mr. Tomei?

22            A.     I did not.

23            Q.     Are you supposed to when you identify  
24     if there's a language barrier?

25            A.     I don't know if there's a specific time

1     when it's supposed to be done. I'm unsure when  
2     it's supposed to be filled out.

3             Q.     Have you ever filled out one of those  
4     before?

5             A.     I don't think I personally have, no.

6             Q.     Do you know who's supposed to fill  
7     those out? And in what part of the process that's  
8     supposed to be filled out in?

9             A.     I'm unsure.

10            Q.     Have you been trained if there are any  
11     risks of using family members as interpreters?

12            A.     I'm sure if I've specifically been  
13     trained on it before.

14            Q.     Are you aware of any potential risks of  
15     using family members as interpreters?

16            A.     Yes.

17            Q.     What are some of the risks involved of  
18     using family members as interpreters that you're  
19     aware of?

20            A.     They may not understand the medical  
21     language.

22            Q.     Okay. How about that they may not  
23     interpret everything that you say?

24            A.     Possibly.

25            Q.     Or may change information from the



1 patient?

2 A. Possibly.

3 Q. How would you know if someone prefers  
4 to use family members if you can't communicate with  
5 them directly?

6 A. I don't know.

7 Q. Have you ever had a patient prefer to  
8 communicate through family members?

9 A. Not that I remember specifically, no.

10 Q. Have you ever utilized a family member  
11 to interpret for you?

12 A. It's possible when I worked in an  
13 emergency department. So if there was a time when  
14 I needed to get a history, and an interpreter was  
15 unavailable, I would at least use a family member  
16 and find an interpreter when they were available.  
17 But most of the time an interpreter is available in  
18 the hospital.

19 Q. Have you ever used VRI before?

20 A. Yes.

21 Q. Have you ever used that for sign  
22 language?

23 A. Yes.

24 Q. How many times?

25 A. I'm not sure.

1 Q. Okay. Has it been in the last year or  
2 more than the last year?

3 A. Within the last year.

4 Q. And do you recall prior -- ever using  
5 the video remote interpreter prior to the last year  
6 for sign language?

7 A. I'm unsure. It's possible, but I don't  
8 know.

9 Q. Okay. Do you know how to get an  
10 in-person sign language interpreter?

11 A. I contact the charge nurse and she  
12 would communicate with the house supervisor.

13 Q. Do you know who the RN Eustace is?

14 A. Yes.

15 Q. Who is that?

16 A. She was a nurse that worked in the  
17 emergency room.

18 Q. Does she still work there?

19 A. I'm not sure. I don't work in that  
20 department any more.

21 Q. Do you have any other -- do you have  
22 any recollection of Mr. Tomei that you haven't  
23 already testified to?

24 A. No.

25 Q. Do you know, as a matter of policy or

1 practice, that if you identify that someone may  
2 have a language barrier, if you are supposed to  
3 affirmatively offer an interpreter or only wait  
4 until they make a request?

5 A. I'm unsure about that. I don't know.

6 Q. If you see someone who speaks Spanish,  
7 would you just sit on your hands and wait until  
8 they made a request for an interpreter or would you  
9 identify that they spoke Spanish and offer an  
10 interpreter?

11 A. I would ask what language they spoke.  
12 And if they were able to tell me they want an  
13 interpreter, then I would get one. But if I was  
14 having difficulty communicating with them, then I  
15 would get an interpreter.

16 Q. Okay. So is there a policy or practice  
17 that you're aware of that you're only supposed to  
18 get an interpreter if there's a request made or  
19 once a language other than English is identified in  
20 your interaction?

21 A. Not that I'm aware of. I don't know  
22 the specifics.

23 Q. Okay. Have you been told by anyone at  
24 Parkwest that you are only supposed to get an  
25 interpreter only if there's a specific request for

1 one?

2 A. Not that I recall, no.

3 Q. Okay. Have you been told by anyone at  
4 Parkwest that if you identify that someone speaks  
5 another language, that you should not offer them an  
6 interpreter?

7 A. No.

8 MR. ROZYNSKI: I don't have any further  
9 questions. Thank you.

10 THE WITNESS: Okay. Thank you.

11 MR. YOUNG: I have just a couple.

12 EXAMINATION BY MR. YOUNG:

13 Q. First off, on page four, just for  
14 clarity of the record, can you see page four of  
15 Exhibit 3, the chart? That's it. Do you have an  
16 entry in there for suicide screening?

17 A. Oh, yes.

18 Q. Okay. Just for clarity, I think  
19 earlier you said your entries were just on page two  
20 or three?

21 A. Yes, yes. That's part of the triage  
22 assessment. But it just gets put on to a different  
23 page for some reason.

24 Q. Okay. The occasions when you've used  
25 the Stratus, is it easy to operate?

1 A. Yes.

2 Q. The occasions when you communicated  
3 with someone via the Stratus who was deaf and used  
4 ASL, can you tell us how it functioned on those  
5 occasions?

6 A. It works well. It's a video  
7 interpreting, so it's a big Pad screen. And it's a  
8 live interpreter. So we ask for a name and  
9 department. And then they are able to interpret  
10 for the patient because they can see them with the  
11 video recorder.

12 Q. Any problems with connectivity, or  
13 glitches or lagging?

14 A. Not that I'm aware of.

15 MR. YOUNG: I think that's all I have.

16 Thank you.

17 THE WITNESS: Okay. Thank you.

18 (Deposition was concluded at 2:41 p.m.)

19

20

21

22

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25

1 C E R T I F I C A T E

2 STATE OF TENNESSEE

3 COUNTY OF KNOX

4 I, Catherine Golembeski, Licensed Court  
5 Reporter and Registered Professional Reporter, do  
6 hereby certify that I reported in machine shorthand  
7 the deposition of JANELLE BAGNESKI, called as a  
8 witness at the instance of the Plaintiff, that the  
9 said witness was duly sworn by me; that the reading  
10 and subscribing of the deposition by the witness  
11 was waived; that the foregoing pages were  
12 transcribed under my personal supervision and  
13 constitute a true and accurate record of the  
14 deposition of said witness.

15 I further certify that I am not an attorney  
16 or counsel of any of the parties, nor an employee  
17 or relative of any attorney or counsel connected  
18 with the action, nor financially interested in the  
19 action.

20 *Cathy J. Golembeski*  
21 \_\_\_\_\_  
22 Catherine Golembeski, LCR# 778  
23 Registered Professional Reporter  
24  
25

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